

REMARKS

As indicated in the listing of claims please amend claims 1, 65, 71, and 78 and add claims 79-81. Support for the added claims which do not add new matter is found as indicated in Table I below, where paragraph numbers are from the published application and the page and line numbers are from the captioned patent application:

TABLE I			
Claim	Support	Claim	Support
79	paragraph 0027 and Figure 1	80	Same location in the specification as for claims 65, 67, 70 and 72.
81	paragraph 0005 and 0006 and same location in the specification as that for claim 72		

TRAVERSE OF REJECTION UNDER 35 USC 102(b)

In the office action of November 29, 2007 on page 2 claims 1, 65, 66, 70 and 72 were rejected under 35 USC 102 (b) as being anticipated by Giannetta et. al. (6334881B1), hereinafter referred to as "881 patent". The office action noted that:

"The 881 patent teaches a filtration bag for a commercial and residential vacuum cleaner as noted at the abstract and column 1 lines 10 -- 14 and column 2 lines 58 -- 62."

The office action further noted that:

"The composite sheet is comprised of at least one layer of expanded polytetrafluoroethylene ("PTFE") and a least one substrate layer and a support layer. The support layer comprises a synthetic fibers which is nonwoven polyester, poly propylene, polyethylene, fiberglass or micro-fiberglass, bonded to one side of a porous expanded PTFE membrane."

In addition to the afore- noted reference locations in the 881 patent, column 2 lines 31 -- 33 and lines 58 -- 62 and column 3 lines 52 -- 56 were noted. Unfortunately neither of these locations actually use the term "substrate layer". In actuality the term "substrate layer" does not appear anywhere in the 881 patent document. Of course the

term "substrate layer" does appear in the caption patent application. Hopefully this is not an indication of incorporating hindsight by utilizing terms of the caption patent application to describe information not so described in a cited reference.

The 881 patent does teach a filter media for gas filtration systems such as commercial and residential vacuum cleaners where the media or material comprises a filter media support bonded to a porous expanded PTFE membrane and further comprising a protective surface pattern bonded to the porous expanded PTFE. It is noted that the protective surface pattern such as a screen protects the expanded PTFE surface against damage due to impingement of particles during operation of the gas filtration system. The 881 patent is all about protecting the expanded PTFE with the pattern like a screen material since there are numerous locations in the patent noting the protective pattern as being a necessary part of the 881 disclosed invention. At column 2 lines 58 -- 64 it is noted that the protective surface pattern bonded to the other side of the expanded PTFE membrane protects the expanded PTFE against damage due to impingement of collected particles during operation of the gas filtration system. The protective surface pattern is also emphasized for its protective features. Also as noted column 3 lines 31 -- 34 the expanded PTFE membrane is bonded to the nonwoven support layer and to the screen material such as by lamination so that the expanded PTFE membrane is between the nonwoven support layer and a screen material. It is also noticed in column 3 lines 63 through 68 that the protective surface pattern may be discontinuous such as a pattern of dots or like or continuous such as a screen pattern or some combination of continuous and discontinuous components. Additionally it is noted that preferably the protective surface pattern covers 60% or less and more preferably 50% or less of the surface area of the membrane when the protective surface pattern is bonded there to. This is further elaborated on at column 4 lines 1 - 2.

Therefore is respectfully submitted that the 881 patent never teaches the use of the expanded PTFE without it being surrounded on both sides, one side with the woven support layer and the other side with protective surface pattern. Nowhere in the 881 patent can Applicants find a teaching that the filtration media for a commercial or residential vacuum cleaner is disposable and is formed from a composite sheet of just at

least one layer of expanded PTFE and a least one substrate layer without the protective surface pattern.

Applicants independent claim 1 has been amended to clarify that the language of the previously submitted independent claims 1 that the disposable bag does not have a protective pattern surface. This is done in the amended claim 1 by noting that the disposable filtration bag is essentially free of bonded material for the expanded PTFE on the side opposite the side of the expanded PTFE with the substrate layer. Previously submitted claims 65-68 already note that the protective surface pattern is not present by the use of terminology of "...the composite sheet consists essentially of the PTFE and the substrate layer. . . ". New independent claims 80 and 81 have the composite sheet consisting essentially of the at least one layer of PTFE and a substrate layer. This clarifies that a protective surface pattern that is so fundamental to the 881 patent to protect the expanded PTFE is not present in Applicants' claimed invention.

Under United States patent law, it is well-established that a claim is anticipated if a single prior art reference discloses each and every element of the claimed invention, either expressly or inherently. Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 976 F.2d 1559 (Fed. Cir. 1992). Additionally, the single reference must describe and enable the claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it. In re Spada, 911 F.2d 705 (Fed. Cir. 1990). Therefore it is respectfully submitted that the 881 patent fails to disclose each and every claim limitation since there is not teaching or suggestion of the absence of a protective surface pattern for expanded PTFE in a disposable filter bag.

The office action further noted that it is inherently well understood that the expanded PTFE is a filtration media which has the filtering 99.7% of particles 0.3 μ or larger (see applicants admission in claim 65 as "at least one layer of filtration media for filtering 99.7% of particles 0.3 μ or larger or expanded polytetrafluoroethylene").

First, it is respectfully submitted that in claim 65 Applicants are noting by the language "at least one layer of a filtration media for filtering 99.7% of particles 0.3 μ or larger or expanded polytetrafluoroethylene" that these two materials can be the at least one layer of a filtration media. This means that the one layer can be expanded polytetrafluoroethylene OR the at least one layer can be a filtration media for filtering

99.7% of particles 0.3 μ or larger. The use of the disjunctive "OR" is not equating the equivalency of the two materials but only noting that either one can be the at least one layer. This does not attempt to equate all expanded polytetrafluoroethylene as filtration media for filtering 99.7% of particles 0.3 μ or larger. If the examiner is relying on personal knowledge or knowledge of somebody else at the USPTO for taking this position, Applicants request this information be made of record in an affidavit or declaration of such individual in accordance with rule 37 CFR 1.104(d).

Second, it is respectfully submitted that the Examiner has not made out a prima facie case for inherency. Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. It seems well settled to establish inherency the disclosure must be sufficient to show that the natural result flowing from the operation as taught would result in the performance of the questioned function. Continental Can Co. USA, Inc. v. Monsanto Co., 948 F.2d 1264 (Fed. Cir. 1991) (quoting In re Oelrich, 666 F.2d 578 (C.C.P.A. 1981). To support a rejection based on inherency, the burden on the examiner is to provide factual and technical grounds establishing that the inherent feature necessarily flows from the teachings of the prior art. See Ex Parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int. 1990).

It is respectfully submit that the examiner has not established a case for either an admission by Applicant by terminology in Applicants' presented claim or for any inherency. Therefore it is respectfully submitted that the claims 1, 65, 66, 70 and 72 are novel and unobvious over the 881 patent.

REJECTION UNDER 35 USC 103(b)

Also in the office action of November 29th, claims 5 -- 11, 13, 14, 16 -- 19, 67 -- 69, 71, 73, 74, and 76 -- 78 were rejected under 35 USC 103(a) as being unpatentable over the 881 patent as applied in the above 102(b) rejection in view of secondary references. These secondary references for the rejection of these claims was in view of any one of Requejo et al. (US 5,090,975), Zhang (US 6, 156, 086), Bosses (US 5, 080, 702), and further in view of Macoka et al. (US 6,030,484; Abstract, col.1 lines 5-10, lines 29-35, and line 61 through column 2 line 15; column 2 lines 26-29) and Wnenchak et al.

(US 6, 110, 243). It is noted that even though claim 75 was included in the rejection of a group of claims on page 1 of the office action at box 6, there was no reason given for inclusion of claim 75 in that rejection.

It is respectfully submitted that since this rejection under 35 USC 103(a) is based on the primary reference of the 881 patent that the rejection is overcome because the 881 patent always teaches the presence of the protective surface pattern. All of Applicants' pending claims independent and their dependent claims note the non-presence of such a protective surface pattern by noting the filter is essentially free of such a layer or by noting that the filter "consists essentially of" the recited elements. These secondary references do not suggest removal of the protective surface pattern present in the primary reference when expanded PTFE is in the filter media.

In addition in regards to claim 5, this claim requires a disposable filter bag for a floor care appliance with a front panel portion, a rear panel portion comprised of a first rear panel portion and a second rear panel portion joined together with a seam, wherein said front panel portion and said rear panel portion each respectively have a top end and a bottom end and said respective top ends and bottom ends are sealed together by folding and an adhesive. There is no disclosure in any of the references to modify the filtration bag of the 881 patent with a filtration bag as taught by any one of the secondary references with a layer of PTFE film as taught by either Maeoka et. al. and Wnenschak et al.

Also the office action noted on page 4 that applicant argues the primary reference does not disclose "the filter media layer in conjunction with a substrate layer". Applicants' meant by this that the primary reference does not disclose "the filter media layer in conjunction with just substrate layer. Additionally as shown above in the response to the 102 rejection, the primary reference does not disclose a filter media layer in conjunction with a substrate layer without the presence of a protective surface pattern bonded to the PTFE. Again in the office action at the beginning of page 5, reference is made to inherent teaching and an admission. The traversal of this approach is discussed more fully above. Also it was mentioned in the Office Action that the recitation "disposable" has not been given patentable weight because the recitation occurs in the preamble. It is respectfully submitted that the independent claims 65 and 78 have been

amended to include the term "disposable" in the body of these claims. Therefore is respectfully submitted that the term should be given patentable weight.

For the second full paragraph of page 5 of the office action the position of the examiner is not entirely understood. This paragraph reads:

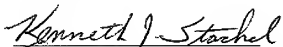
"In response to applicants argument that "the instant disposable filtration bag has no such protective surface or screen material". The examiner respectfully disagrees. In column 3 lines 52 -- 56, Giannetta et al. teaches a support layer as a nonwoven textile of spun bound or melt blown polyester, polypropylene or polyethylene which is clearly synthetic fibers as claimed."

This is all well and good for the "support layer" but the teaching of the 881 patent is that the "support layer" IS NOT THE PROTECTIVE SURFACE PATTERN. The protective surface pattern is present in addition to this support layer for the expanded PTFE membrane. The protective surface pattern is bonded to the other side of the expanded PTFE membrane from where the support layer is located so the expanded PTFE is always sandwiched between other layers. The protective pattern surface can be a screen material. In regards to the examiner's comments about secondary references applicants position is mentioned above. This also applies to the George et al. reference which was mentioned but not really part of the original 103 rejection. The George reference also teaches sandwiching the expanded PTFE.

From the aforementioned remarks and the claims as presented in the accompanying listing of claims it is respectfully submitted that the pending claims are in condition for allowance. Reconsideration and prompt attention on the merits are respectfully requested for the pending claims as now listed in the attached listing.

Respectfully submitted,

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